IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Criminal Misc. Application No. 584 of 2001
(Old No. 5245 of 1996)

Anil Kumar …Applicant

Versus

State …. Opposite Party

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr.P.C. has been filed by Sri Anil Kumar for quashing the proceedings in criminal case No. 578 of 1996 State Vs. Baldev Singh another under Section 7/16 of Prevention of Food Adulteration Act pending in the Court of C.J.M., Nainital

Brief facts giving rise to this petition are that the Food Inspector took a sample of Namkeen and the sample was sent to the Public Analysis, Lucknow, who sent the report that the sample was found to be adulterated. Thereafter, the C.M.O. Nainital came to the conclusion that the petitioner had violated the provision of Prevention of Food Adulteration Act and the prima facie case is made out.

The C.M.O., Nainital has accorded sanctioned for filing the complaint against the petitioner before the court. Accordingly, the complaint was filed before the court of learned C.J.M. Nainital, who on 26.09.1996 took the cognizance in the matter.

Learned C.J.M. vide order dated 26.09.1996 has observed that the petitioner does not intends to send the second sample for analysis to the Central Food Laboratory. The learned C.J.M., therefore, fixed the date for recording the evidence of the complainant under Section 244 Cr.P.C.

Feeling aggrieved by the aforesaid order, the petitioner had approached the High Court of Allahabad under Section 482

Cr.P.C. for quashing the entire proceedings in Criminal Case No. 578 of 1996 State Vs. Baldev Singh another under Section 7/16 of Prevention of Food Adulteration Act pending in the Court of C.J.M., Nainital which has been transferred to this Court after creation of Uttaranchal, for disposal.

Heard Smt. Beena Pandey holding brief of Ms. Sanjana Madan counsel for the petitioner, learned counsel for the State and perused the record.

It has been submitted by the learned counsel for the petitioner that no notice was ever served upon the petitioner as envisaged under Section 13(2) of the Act. Hence the petitioner was not aware in the report of the public analysis, hence he could not be taken the steps for sending the second sample for analysis.

I do not find any force in this argument. It is quite clear from the perusal of the order passed by the C.J.M., Nainital that the counsel was present before the court and stated that the petitioner does not intend to send the second sample for analysis to the Central Food Laboratory.

Learned counsel for the petitioner could not show before this Court that there has been any abuse of process committed in this case. The matter is still to be tried before the court below and at this stage the criminal trial cannot be cut short in a rather causal manner.

I do not find any justification in embarking upon the inquiry as to the reliability or the genuineness of the allegations made in the complaint. While dealing with the petition under Section 482 Cr.P.C. seeking the quashing of criminal proceedings.

The inherent power of the High Court under Section 482 Cr.P.C. should be exercised sparingly. The trial court has to examine the entire evidence to be adduced by the parties. I do not find any justification to interfere in the matter at this stage. To my mind the trial must go on and quashing of proceedings would not be proper.

The Hon'ble Apex Court in several decisions has specifically held that while exercising inherent powers of quashing the proceedings or the F.I.R. under Section 482 Cr.P.C., it is for the High Court to take into consideration any special features, which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. The sole purpose would be to prevent abuse of process of any court or otherwise to secure the ends of justice.

As I have already observed that I do not find any special feature in this case which may suggest that it would be expedient and in interest of justice to stop the prosecution to continue. I also do not find any abuse of the process of the court in this matter.

With the aforesaid observations, this petition under Section 482 Cr.P.C. lacks merits and is accordingly dismissed.

The stay order dated 09.12.1996 is hereby stands vacated.

29.07.2004 **(B.C. Kandpal, J.)**
ASWAL